

STATE BOARD OF EQUALIZATION

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No. 78/120

TO COUNTY ASSESSORS, COUNTY COUNSELS AND INTERESTED PARTIES:

STATUTORY IMPLEMENTATION OF PROPOSITION 13

Following the approval of Proposition 13 by the voters on June 6, 1978, the Legislature passed and the Governor signed three bills which resolve many of the problems and ambiguities created by Proposition 13. The three bills are Senate Bill 154 (Chapter 292), Senate Bill 2212 (Chapter 332) and Senate Bill 1571 (Chapter 353). The bills address themselves to the following problem areas:

Full Cash Value

For purposes of Proposition 13, Section 27 of Senate Bill 154 which added Section 110.1 to the Revenue and Taxation Code, defines "full cash value" to mean the full cash value (fair market value) of property as determined pursuant to Section 110 of the Revenue and Taxation Code for either (1) the 1975 lien date or (2) the date the property is purchased, is newly constructed, or changes ownership after the 1975 lien date. The values thus determined shall be the "base year value."

Property Tax Rule No. 460(b)(2)(A), which was adopted by the Board on June 29, 1978, reflects the provisions of Senate Bill 154 relating to "full cash value."

Change in Ownership

A "change in ownership" of real property was initially defined in Section 29 of Senate Bill 154 (adding Section 110.6 to the Revenue and Taxation Code) to include all recorded and

unrecorded transfers of legal or equitable title, except the transfer of bare legal title. This definition was subsequently modified by Section 26 of Senate Bill 2212. The current state of the law specifically excludes from the all encompassing definition of change in ownership:

- (1) any interspousal transfer creating or terminating a community property interest of joint tenancy interest;
- (2) any termination of a joint tenancy interest; and
- (3) three examples of transfers of bare legal title. (See 7/6/78 "Change of Ownership" letter to Assessors No. 78/116.)

With respect to interspousal transfers, it is the opinion of the Board's legal staff that such transfers include all gifts and agreements between spouses which transform separate property to community property and vice versa. A termination of a community property or joint tenancy either by agreement, dissolution, or death of a spouse are transfers which are also excluded from the change in ownership definition. It should be noted that all terminations of joint tenancy interests are excluded, but only joint tenancies created between spouses are excluded. A joint tenancy can be terminated voluntarily by agreement and involuntarily by death with a right of survivorship.

Section 110.6 of the Revenue and Taxation Code, as amended by Senate Bill 2212, also excludes from the change in ownership definition the transfer of a share of stock in a cooperative housing apartment, but it provides that "that proportion of the value" of the unit shall be included. Taking into account the apparent legislative intent, the Board's legal staff interprets this provision to mean that a transfer of a share of stock in a cooperative housing apartment is a change in ownership, but only the unit conveyed by virtue of the stock transfer shall be reappraised as of the date of the stock transfer. It is the understanding of the Board staff that this language will be clarified when the Legislature reconvenes in August.

Property Tax Rule No. 462, which was adopted by the Board prior to the enactment of Senate Bill 2212, does not reflect the aforementioned statutory exclusions from the "change in ownership" definition.

Deadline for Completing the 1978-79 Assessment Roll

On June 8, 1978, the Board granted a 30-day extension to all county assessors to complete their 1978-79 assessment rolls pursuant to authority provided in Section 155 of the

Revenue and Taxation Code. On July 4, 1978, the Governor signed Senate Bill 1571 which added Section 155.2 to the Revenue and Taxation Code. This new provision extends the deadline for completion of the 1978-79 assessment roll to August 21, 1978.

Reappraisals

Senate Bill 154 and Senate Bill 2212 make clear that all properties which were not appraised in their appropriate base year shall be reappraised to reflect their base year value. Section 110.1(b) of the Revenue and Taxation Code, as added by Senate Bill 154 and amended by Senate Bill 2212, applies to both the properties on the 1975-76 assessment roll and the properties which were newly constructed or changed ownership subsequent to the 1975 lien date. Reappraisals should be accomplished and enrolled as expeditiously as is possible. The new statutory provision clarifies that assessors are not compelled to adhere to the appraisal sequence contained in their reappraisal plans filed pursuant to Section 405.6. Instead they may proceed to reappraise all properties to their appropriate base year values in 1978-79. Although it is not entirely clear, Section 3 of Senate Bill 1571 would seem to require that all escape assessments be made and underassessments be corrected for the 1975-76 fiscal year on or before June 30, 1980. Legislative clarification will be requested.

Property Tax Rule No. 460(b)(2)(B), reflects the provision of Senate Bill 154 and Senate Bill 2212 relating to reappraisals.

Roll Corrections

For the 1978-79 fiscal year only, Senate Bill 1571, which adds Section 4843 to the Revenue and Taxation Code, provides that the assessors may make corrections to the 1978-79 roll throughout the fiscal year without a prior hearing by, or the prior approval of, the board of supervisors. The purpose of this provision is to facilitate the enrollment of those reappraisals made after August 21, 1978.

Escapes and Underassessments

Senate Bill 1571 added Section 532.3 to the Revenue and Taxation Code which extends to June 30, 1980, the final date for enrolling assessments for any property which escaped assessment or was underassessed for the 1975-76 fiscal year.

4

This provision extends for one year the statute of limitations on escapes that otherwise would have expired on June 30, 1979. We are of the opinion that neither Article XIII A nor this legislation is authority for making escapes for 1975, 1976 or 1977 based on underassessments resulting from cyclical appraisal programs.

Applications for Assessment Appeals

Senate Bill 1571, amending Section 1603 of the Revenue and Taxation Code, extends for the 1978-79 fiscal year only, the deadline for filing applications for assessment reductions in all counties to September 30, 1978. For the fiscal years following 1978-79, the deadline for filing such applications in all counties is September 15. The September 15 uniform filing date is also provided for in Senate Bill 1384 (Chapter 214, Statutes of 1978).

If you have any questions, please contact Mr. Glenn L. Rigby, Assistant Chief Counsel of Property Tax, (916) 445-4588.

Sincerely,



Walter R. Senini
Chief of Operations

WRS:rl